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Kent H. Roberts

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

**SECURITIES AND EXCHANGE  
COMMISSION.**

14 Plaintiff,

15 || v.

16 KENT H. ROBERTS,

17 || Defendant.

Case No. C 07-04580 MHP

**AMENDED AND CORRECTED  
DECLARATION OF EINAT SANDMAN  
CLARKE IN SUPPORT OF DEFENDANT  
KENT ROBERTS' ADMINISTRATIVE  
MOTION TO FILE UNDER SEAL PORTIONS  
OF DEFENDANT'S MOTION TO COMPEL  
PRODUCTION OF DOCUMENTS FROM  
THIRD PARTY HOWREY LLP, THE  
DECLARATION OF WILLIAM S. FREEMAN  
IN SUPPORT THEREOF AND EXHIBITS D, E,  
F, J, K, N, O, R, S, T & U TO THE  
DECLARATION OF WILLIAM S. FREEMAN**

Judge: Hon. Marilyn H. Patel

I, Einat Sandman Clarke, declare as follows:

24       1. I am an attorney licensed to practice law in the State of California and an associate  
25 at the law firm of Cooley Godward Kronish LLP, counsel of record for defendant Kent Roberts  
26 (“Roberts”). The following facts are based on personal knowledge or on information and belief  
27 based upon my review of documents and sources I believe to be trustworthy.

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1           2.       The Roberts' Motion to Compel Production of Documents from Third Party  
 2 Howrey LLP and the Declaration of William S. Freeman in Support of Roberts' Motion to  
 3 Compel Production of Documents from Third Party Howrey LLP ("Freeman Declaration") refers  
 4 to and contains documents that have been designated confidential subject to a Stipulation and  
 5 Protective Order entered into in this case on November 16, 2007 ("Roberts Protective Order") and  
 6 a Protective Order ("Weiss Protective Order") entered in the arbitration proceeding of *Kevin*  
 7 *Weiss v. McAfee, Inc.*, American Arbitration Association, No. 71 166 00038 07 ("Weiss  
 8 Arbitration").

9           3.       Attached hereto as Exhibit A is a true and correct copy of the *Roberts* Protective  
 10 Order.

11          4.       Attached hereto as Exhibit B is a true and correct copy of the *Weiss* Protective  
 12 Order.

13          5.       Defendant received the documents subject to the *Weiss* Protective Order from the  
 14 government in the course of discovery, and has been informed by counsel for Kevin Weiss and  
 15 McAfee, Inc. ("McAfee") that the documents are sealable. Attached hereto as Exhibit C is a  
 16 correspondence between Roberts' counsel and counsel for Kevin Weiss regarding the documents  
 17 that Defendant has moved to file under seal.

18          6.       Roberts' counsel has advised counsel for both parties in the *Weiss* Arbitration of  
 19 the filing of Roberts' Motion to Compel Production of Documents from Third Party Howrey  
 20 LLP, and that the Freeman Declaration contains documents that have been designated  
 21 confidential under the *Weiss* Protective Order. Roberts' counsel referred both parties to their  
 22 obligations regarding the sealed documents under Civil Local Rule 79-5. Courtesy copies of the  
 23 Motion to Compel and supporting documents have been sent to counsel for Kevin Weiss and  
 24 McAfee.

25          7.       Exhibit D to the Freeman Declaration contains excerpts from the Deposition of  
 26 Transcript of Robert E. Gooding, Jr., taken in the course of the *Weiss* Arbitration.

27          8.       Exhibit O to the Freeman Declaration contains excerpts from the Deposition of  
 28 Transcript of David T. Bartels, taken in the course of the *Weiss* Arbitration.

1           9.       McAfee, through Howrey LLP (“Howrey”), has advised Roberts’ counsel that it  
2 believes Exhibits E and R to the Freeman Declaration are confidential and should be filed under  
3 seal. In accordance with the *Roberts* Protective Order and Local Rule 79-5, Roberts’ counsel has  
4 moved to file these documents under seal. Howrey has been served with copies of these  
5 documents.

6 10. McAfee has designated documents currently filed under Exhibit F, J, K, N, R, S, T  
7 and U to the Freeman Declaration as “confidential.” In accordance with the *Roberts* Protective  
8 Order and Local Rule 79-5, Roberts’ counsel has moved to file these documents under seal.  
9 Howrey has been served with copies of these documents.

10        11.        There are portions of Roberts' Motion to Compel Production of Documents from  
11        Third Party Howrey LLP that refer to information designated confidential under the *Weiss*  
12        Protective Order and the *Roberts* Protective Order. Pursuant to Local Rule 79-5(c) and (d), a  
13        public version of the Motion to Compel has been electronically filed with the Court.

14       12. There are portions of the Freeman Declaration that refer to information designated  
15 confidential under the *Roberts* Protective Order. Pursuant to Local Rule 79-5(c) and (d), a public  
16 version of the Motion to Compel has been electronically filed with the Court.

17 I declare under penalty of perjury that the foregoing is true and correct. Executed on  
18 February 20, 2008, at Palo Alto, California.

/s/

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Einat Sandman Clarke

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